

REMARKS

The application has been reviewed in light of the Final Office Action mailed on December 6, 2007. Claims 28, 32, 33, 37 and 41 have been amended without adding new matter. Claims 18-20 have been cancelled without prejudice. Applicant reserves the right to pursue cancelled claims in other applications. Claims 28-25 are now pending in the application. Reconsideration is respectfully requested for the following reasons.

Claims 18, 19, 22-25, 27-29, 31-34, 36-38, 40/37, 40/38, 41-43 and 45 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Cato et al., U.S. Patent No. 5,539,394 ("Cato"). Please note that claims 22-25 and 27 were cancelled in a previous amendment, and claims 18 and 19 are cancelled by this paper. Reconsideration of the other claims is respectfully requested.

As Applicant explained in the Amendment filed on September 17, 2007, Cato fails to teach or suggest "detecting using a check processing program whether the noncontact electronic tag is permitted to pass through the passage section," as recited in claim 28. Cato relates to a method for resolving collisions between multiple tags, *e.g.*, reading tags that transmit information at a same time. Cato's tags, however, do not contain information indicating whether an article attached to the tag is permitted or inhibited to pass through an area.

In the "Response to Arguments" section, the Office Action asserts (at p.2) that

It is the examiner's position that Cato et. al teaches the tag identification information is used to identify the product to which the tag is attached and is used to retrieve product and price information (col. 8 lines 41-45) and the payment amount is determine[d] and the inventory is adjusted based on acceptance of the payment (col. 8 lines 36-40). The examiner considers the acceptance of payment and the adjusting of the inventory as allowing the customer to pass with the purchased product.

Initially, please note that the Office Action's assertion – that "[t]he examiner considers the acceptance of payment and the adjusting of the inventory as allowing the customer to pass with

the purchased product” – does not address Applicant’s argument. Applicant argued in the September 17 Amendment that Cato fails to teach or suggest detecting “whether the noncontact electronic tag is permitted to pass through the passage.” Nothing in the Office Action’s assertion addresses the language of the claim limitation.

Nonetheless, claim 28 has been amended to further distinguish over Cato. Amended claim 28 now recites the “noncontact electronic tag ... attached to an article ... compris[es] information indicating whether or not said article attached to said tag is permitted or inhibited to pass through said management area.”

Cato fails to teach or suggest this limitation. To the contrary, Cato discloses only a system where flow of information between tags and reader can be used to “look up each of the prices for each of the items, total the purchase amount, accept payment for the transaction and adjust any inventory records to reflect sale of the quantity and type of item contained in the cart.” Column 8, lines 35-45. This disclosure fails to meet the above-quoted limitation because to anticipate a claim under 35 U.S.C. § 102, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” MPEP 2131. Cato fails to teach or suggest “tag data comprising information indicating whether or not said article attached to said tag is permitted or inhibited to pass through said management area.”

For at least the foregoing reasons, claim 28 is allowable over Cato. Claims 29 and 31 depend from claim 28 and are allowable based at least on the same reasons as for allowance of claim 28, and for other reasons.

Claim 32 has been amended to recite that the “electronic tag includes tag data comprising information indicating whether or not said article attached to said tag is permitted or inhibited to pass through said management area.” As discussed above with respect to claim 28, Cato fails to teach or suggest this limitation, and claim 32 is allowable for at least this reason. Claims 33, 34 and 36 depend from claim 32 and should be allowed together with their base claim.

Claim 37 has been amended to recite that the “tag data compris[es] information indicating whether or not said article attached to said tag is permitted or inhibited to pass through said management area.” As discussed above with respect to claim 28, Cato fails to teach or suggest this limitation, and claim 37 is allowable for at least this reason. Claims 38, 40/37 and 40/38 depend from claim 37 and should be allowed together with their base claim.

Claim 41 has been amended to recite that the “tag data comprises information indicating whether or not an article attached to said tag is permitted or inhibited to pass through said management area.” As discussed above with respect to claim 28, Cato fails to teach or suggest this claim limitation, and claim 41 is in condition for allowance. Claims 42, 43 and 45 depend from claim 41 and should be allowed together with their base claim.

Claims 20, 30, 35, 39, 40/39 and 44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cato in view of Muhme (U.S. Pat. No. 5,886,634) (“Muhme”). Please note that claim 20 has been cancelled by this paper. Reconsideration of the other claims is respectfully requested.

Claims 30, 35, 39, 40/39 and 44 depend from claims 28, 32, 37 and 41, and contain all of the limitations of their base claims. As discussed above, amended independent claims 28, 32, 37 and 41 are allowable over Cato, and Muhme adds nothing to Cato to correct its deficiencies with respect to claims 28, 32, 37 and 41. Therefore, claims 30, 35, 39, 40/39 and 44 are allowable for at least this reason.

Moreover, for the reasons Applicant discussed in the September 17 Amendment, even if Cato and Muhme could be properly combined, which Applicant disputes, the combined teachings of Cato and Muhme would not achieve the claimed inventions. For example, with respect to claim 30, Muhme fails to cure the deficiencies of Cato and fails to disclose a noncontact electronic tag that indicates that the item is permitted to pass through the passage section or is inhibited from passage. Muhme’s tags do not contain information regarding whether the attached item is permitted or inhibited to pass through an area. Muhme also fails to disclose or suggest that the “tag access

processing is enabled when said tag check processing means detects a noncontact electronic tag whose passage is inhibited.”

With respect to claim 35, Muhme fails to cure the deficiencies of Cato and fails to disclose a “multiple tag access program” which includes a “processing using a repetitive processing system ... configured to change a specification position in the specification data and causing the interrogating communication processing means.” Muhme does not address changing any position in a specification data. For this additional reason, claim 35 is not obvious over Muhme in combination with Cato.

In view of the above amendments and remarks, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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